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Serial No.: 10/537,187

Case No.: 21208Y

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REMARKS

Entry of this amendment, reconsideration and allowance of the captioned patent application are respectfully requested.

Entry of this amendment is appropriate for several reasons. First, the amendment is in response to the Official Action wherein the Examiner indicated that support is sufficient for compounds wherein R¹ is alkyl, cycloalkyl, optionally substituted phenyl or benzyl, and Y is equal to 4-alkylcyclohexyl, as well as salts thereof. Applicants have adopted this language in the claims.

Second, the amended language contained herein does not raise any new issues that would require further consideration or search on the part of the Examiner. The language added to the claims addresses the points already under consideration by the Examiner.

Third, Applicants have cancelled two claims without adding any claims, reducing the issues for possible appeal.

Fourth, even if the Examiner does not believe the amendment places the application in condition for allowance, it generally places the case in better form for appeal should this become appropriate.

It is therefore urged that entry of the amendment is appropriate.

Claims 2, 8, 16 and 17 have been amended. Claims 6 and 7 have been cancelled. Claim 19 was objected to; this claim has been made independent. Claims presently in the case are claims 1-3 and 8-21. Claim 21 was withdrawn from consideration by the Examiner, as drawn to a non-elected invention.

The rejection of claims 6 and 7 is rendered moot by cancelling these claims. Applicants respectfully traverse the rejection of claims 1-3, 8-18 and 20 for non-enablement.

The Examiner has indicated that the application is enabling for compounds in which R¹ represents alkyl, cycloalkyl, optionally substituted phenyl or benzyl and Y represents t-butylcyclohexyl. This indication is appreciatively acknowledged.

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Applicants have amended the claims to recite that R¹ represents (1) a C₁₋₁₅ alkyl group optionally substituted as described or (2) phenyl optionally substituted as described. Support for this amendment is found throughout the application as originally filed, such as, for example, at pages 8-9 in the bridging paragraph, and in the species and examples provided.

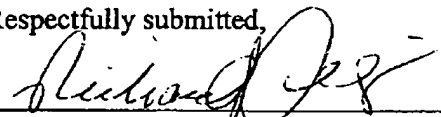
This same change was made in the remaining pending claims, either expressly or by virtue of the claim dependency.

The Examiner also indicated that compounds and salts thereof are enabled wherein Y represents 4-alkylcyclohexyl. This has been addressed by amending the definition of Y as set forth in claim 1. Support for this change is also found throughout the application as originally filed, for example, at page 9, lines 23-26, the species and examples, and claim 7 as originally filed.

Applicants respectfully disagree with the comment relating to the lack of support for any solvates. Support is found in the specification at page 33, lines 13-17, the general reaction schemes, each of which is run in solvent and would produce a solvate, and the examples, which produce hydrates, alcoholates, and similar solvates via the same or very similar reaction conditions. Applicants respectfully disagree with the Examiner's position that the scope of "solvates" is not adequately enabled or defined. While any particular solvate form is unpredictable, solvates generally are formed in the examples provided. Applicants have not sought to claim a solvate with particularity, in terms of the stoichiometry or X-ray crystal coordinates that would be associated with the solvate forms produced in the examples, instead taking the position that solvates, e.g., hydrates such as those found in the chemistry described in the application, would be understood to be within the scope of the claims.

Based on the foregoing, it is urged that the captioned patent application is in condition for allowance. Such action is respectfully requested. If the Examiner has any questions in connection with the application, he is requested to telephone the undersigned.

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